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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/067,508 | 02/04/2002 | Peter Modica | 267/007 | 7546 |
| 29484 | 7590 | 12/07/2004 | EXAMINER | |
| PATENTMETRIX 14252 CULVER DR. BOX 914 IRVINE, CA 92604 | | | CHURCH, CRAIG E | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2882 | |

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

| | | | |
|------------------------------|-------------------------------|-------------------------------|--|
| Office Action Summary | Application No. 10/067,508 | Applicant(s) MODICA ET AL. | |
| | Examiner Craig E. Church | Art Unit 2882 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Claims 1-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitations conveyed by "certification image" and "training image" are unclear. How are these images different from other stored images? It is noted that claim 10 recites that the images are of items currently being inspected. Claims 8, 9, 19 and 20 recite how the apparatus may be operated rather than defining structural limitations as required.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

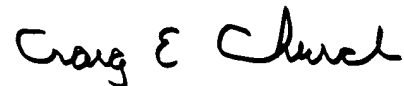
Claims 1-4 and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Verbinski (6552346). Verbinski teaches a security inspection system comprising x-ray source 18, object to be inspected 10, x-ray detectors 26, computer 36 including a database of contraband (threat) images and computer monitor 38. Monitor 38 simultaneously displays two images which may be from either an on going inspection or from the computer's hard drive or floppy disk. The stored images are referred to as reference or comparison images, and some are of inspection objects containing contraband while some are of inspection objects that do not contain contraband (line 51 of column 7 to line 36 of column 8 and lines 52-64 of column 10). The system further comprises an operator tutorial (lines 47-50 of column 7). Means are provided to send a suspect image to a supervisor (lines 2-4 of column 8). Lines 41-46 of column 1 suggest

the invention be used to inspect suitcases, which would obviously necessitate conveyor means. Verbinski does not mention certification or training images, but it would have been obvious to use Verbinski's images for training or certification.

Claims 5, 6 and 12-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Verbinski as above in view of Rapiscan Level 3 cited by applicant. Verbinski does not teach measuring or recording operator performance. Rapiscan comprises software added to x-ray inspection systems to teach operators/screeners how to inspect images for threats such as guns, knives and bombs by displaying to the operator images of baggage containing such items. The software tracks an operator's performance and reports it to supervisors (page 1). Various performance reports are described. It would have been obvious to equip the Verbinski system with the Rapiscan software in order to train screeners since that was its purpose. The various steps and criteria for screener certification that are claimed cannot be regarded as novel since they would have been prescribed by certification agencies and would therefore have been obvious.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Examiner Church at telephone number (571) 272-2488.



Craig E. Church
Senior Examiner
Art Unit 2882